HON'BLE SHRI JUSTICE NOOTY RAMAMOHANA RAO

W.P. No. 25523 of 1998

9.7.2007

Between

Durga Prasad Panigrahi ..Petitioner

AND

The Registrar, University of Hyderabad, Hyderabad ..Respondent

:: JUDGMENT ::

HON'BLE SHRI JUSTICE NOOTY RAMAMOHANA RAO

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W.P. No. 25523 of 1998

There is no representation on behalf of the writ petitioner even on the last occasion as well as today. There is no representation on behalf of the University either. The respondent University has been served with notices in this case, but however, it had not preferred to contest the matter. I therefore perused the material enclosed to the writ petition to decide the dispute raised in this writ petition.

The writ petitioner asserts that he has been selected by the respondent University for appointment as a Junior Office Assistant on 24.5.1986 and that he had joined the service of the University as such on 7.6.1986. The writ petitioner also asserts that through an Office order dated 17.10.1989, he had been promoted as Office Assistant along with several others with effect from 15.9.1989. In terms of the Scheme propounded by the University Grants Commission, the respondent University had started awarding upward movement for such of those employees who have been stagnated in the same position for eight long years. By virtue of this scheme, a stagnated employee gets the benefit of fitment of higher pay scale without any change in his designation or the nature of duties to be performed by him. By an Office order dated 30.9.1997, as many as nine Office Assistants have all been granted the benefit of fitment in the next higher pay scale with effect from 15.9.1997, the date on which they have completed eight years of

satisfactory service in the existing pay scale. Since the name of the writ petitioner was not included in the said Office order, he has submitted a representation on 3.10.1997 pointing out that he had also completed eight years of service by 15.9.1997 and therefore, he deserves consideration for the benefit of upward movement along with others. The writ petitioner has pointed out that as there was no response to his representation, he had instituted W.P.No.7915 of 1998, which was admitted by this Court on 25.3.1998. However, the respondent University through its proceedings dated 20/23-3-1998, had communicated certain adverse remarks contained in his annual confidential report for the year 1995-96 which has been finalized as of 31.3.1996. The adverse remarks contained in the report are to the following effect:

1. Though he is able to work, but efforts were not satisfactory.
2. Short comings: He refuses to attend work. Quarrels with superior officer.
3. Work output is poor.

The writ petitioner has asserted that he had immediately drawn a detailed representation on 20.4.1998 and submitted the same to the respondent-University soliciting expunging of those remarks form his confidential report. It is not in dispute that the procedure followed for the purpose of granting the benefits under the scheme of awarding upward movement to the higher scale is essentially based upon the assessment of satisfactory service rendered for eight years by the individual. But for the adverse entries found in the annual confidential report for the year 1995-96 which ended on 31.3.1996, there was nothing on record to suggest about the lack of satisfactory service on the

part of the writ petitioner. The University through its communication dated 2.7.1998 addressed to the writ petitioner, had pointed out the procedure adopted in the matter of award of upward movement and it reads as under:

1) If the ACRs of the current year are bad their cases were postponed to next year (i.e. till the new ACRs are received).
2) If one of the ACRs are bad to the immediate current year, a special assessment Report in respect of the incumbent is being obtained and on the basis of the report the cases are being considered.

It is obvious that when the case of the writ petitioner was considered as on 15.9.1997, the University had the annual confidential report for the period 1996-97 ending on 31.3.1997 before it and that did not contain any adverse report against the writ petitioner, Therefore, the question of postponing the consideration of his case by one more year to enable a new annual confidential report to be received is neither here nor there. If one of the ACRs preceding the current year contains any bad entries, a special assessment report in respect of the incumbent has got to be obtained and on the basis of that special assessment report, the case of such candidate has got to be considered. In fact, the respondent has not committed as to why such a special assessment report had not been called for in the case of the writ petitioner. It is obvious that the respondent University has chosen to communicate through its office memo dated 20/23-3-1998 the annual confidential report

for the year 1995-96 as the University has treated the same for the current year. The University did not place any reliance upon the annual confidential report which has been finalized for the period 1996-97 which ended on 31.3.1997 and which is liable to be treated as “current year” as the cases of the writ petitioner and other similarly placed employees have come up for consideration as of 15.9.1997. The University has also not committed itself as to the findings of the special assessment report, which is required to be called for in the case of the writ petitioner.

Since the writ petitioner has contested that even those adverse entries said to have been found in his annual confidential report for the year 1995-96 are not truly adverse in their nature, scope and content, it is for the University to contest its correctness and defend its action. The writ petitioner also asserts that they are vague and have been created only for the sake of denying him the benefit under the scheme of awarding upward movement in the higher scale. Otherwise, there is no good reason as to why the University took nearly two years to communicate such adverse remarks to him. The writ petitioner further asserts that by the sheer delay of two years in communicating the remarks contained in the annual confidential reports for the year 1995-96, the writ petitioner had been effectively denied the benefit of contesting them in time and further correct himself to improve upon the quality of his services which will enable him earn a revised estimate of his own performance by his superiors by the time the next annual confidential reports are taken up for consideration.

This apart, the writ petitioner had placed heavy reliance upon certificates issued to him from various agencies of the

University where he had been posted to work, commending the quality of his performance of duties. For instance, he has placed a certificate issued by the Professor and Head of the Department of History of the University dated 24.10.1988 as well as a certificate dated 21.8.1991 issued by the Public Relations Officer of the University vouching for his competence and quality of services. Most importantly, he has also placed a certificate dated 28.12.1995 issued by the Assistant Registrar, SC/ST Cell, where the writ petitioner had performed duties during 1995. The certificate issued by the Assistant Registrar dated 28.12.1995 has listed out the very good quality of services rendered by the writ petitioner and the certificate in fact has been issued in appreciation of the work done by the writ petitioner. In the face of such a certificate dated 28.12.1995, the adverse remarks for the period ending as on 31.3.1996 are certainly baffling, thus leaving an impression that the annual confidential report for the year 1995-96 has been finalized without due regard to the quality of service rendered by the writ petitioner in the SC/ST Cell where he has been attached during the relevant period. The criticism that the adverse remarks are made purposefully to cause hindrance in the onward career progression of the writ petitioner, gains strength. In either of the cases, the action of the University cannot be justified. Further, it has been reported against the writ petitioner that he quarrels with his superior Officers. No instance has been recorded as to when and with whom the writ petitioner had picked up a quarrel. Similarly, in the face of the assertion of the writ petitioner that he had never been served with a single memo, the allegation that he refuses to attend to the work, clearly lacks substance.

Obviously, the University has recognized the force of the statements made by the writ petitioner and therefore, it had not preferred to contest this writ petition. In the absence of any material justifying the action of the respondent--University, I consider that the action of the respondent University in denying the benefit under the scheme of awarding upward movement of fitment in the higher scale in favour of the writ petitioner, is not justified. Therefore, I direct the respondent University to call for a special assessment report of the writ petitioner and accordingly on the basis and strength of the special assessment report, the respondent University shall finalize the benefit under the scheme of awarding upward movement in the higher scale in favour of the writ petitioner with effect from 15.9.1997. In any event, a speaking order assigning reasons for the conclusions reached by the respondent University, has to be communicated to the writ petitioner within a period of two months from the date of receipt of a copy of this order.

For these reasons the writ petition is allowed. However, I consider it appropriate to direct the respondent University to pay costs of Rs.1,000/- to the credit of Andhra Pradesh State Legal Services Authority within a period of 30 days from today.

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NOOTY RAMAMOHANA RAO.J.

9.7.2007
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